

## Ruling

In the instant docket before the Illinois Commerce Commission (“Commission”), Mr. Yaodi Hu (“Mr. Hu”) filed a complaint, and then an amended complaint, against Illinois Power Company (“Illinois Power”). Among other things, Mr. Hu requests that Illinois Power be ordered to supply electric and gas services to certain locations in Danville, Illinois.

The subject of this ruling is a motion filed by Mr. Hu “to join the City of Danville as Party Respondent.” The City of Danville (“City”) filed a “special and limited appearance for the purpose of challenging the jurisdiction of the Commission...over the City of Danville, an Illinois municipal corporation.” Illinois Power also filed a response to Mr. Hu’s motion in which it states that “Mr. Hu does not provide any basis which would allow the Commission to have jurisdiction over Danville.” Thereafter, on November 20, 2002 and November 27, 2002, respectively, Mr. Hu filed replies to the responses of the City and Illinois Power. In Mr. Hu’s opinion, the City “ought to be joined as a necessary and indispensable party respondent.”

In arriving at a decision on Mr. Hu’s motion, it should first be noted that the ultimate question to be decided in ruling on the motion is not whether the City’s ordinances or actions are relevant to the issues in the case, but whether the City should be required, over its objections, to participate as a party respondent in this complaint proceeding presumably brought before the Commission pursuant to the Public Utilities Act (“Act”). Even assuming the City’s ordinances or actions are found to be relevant to the issues in the case, such a finding would not be sufficient, in and of itself, to require the City, over its objections, to participate as a party respondent in a complaint proceeding filed pursuant to the Public Utilities Act.

Mr. Hu cites a number of cases in support of his position that the City should be required to participate as a party respondent; however, there is no indication in his filings that any of those cases involved a situation in which a municipality was required to participate as a party respondent in a complaint case brought before the Commission pursuant to the Public Utilities Act. This is not unexpected in that complaint cases brought before the Commission pursuant to the Public Utilities Act are generally only filed against public utilities or, occasionally, against other entities who engage in certain types of transactions or activities that require Commission authorization.

In the instant case, Mr. Hu has argued, in part, that the City is in fact operating as a public utility and thus may be subject of a complaint filed against it as a party respondent. However, Section 3-105 of the Act specifically provides that the term “public utility” does not include public utilities “that are owned and operated by any public subdivision...or municipal corporation of this State.” Hence, the City is not a public utility within the meaning of the Act. There is also no indication in Mr. Hu’s filings that the City is engaging in other types of transactions or is providing other types of services that require Commission authorization.

In conclusion, there is not a sufficient basis in the record to support a finding that the City should be required, over its objections, to participate before the Commission as a party respondent in this complaint proceeding. Accordingly, Mr. Hu's motion "to join the City of Danville as Party Respondent" is hereby denied. To the extent Mr. Hu believes the City should be ordered to engage in certain actions or refrain from others, he may wish to pursue those efforts in other venues.